

May 31, 2007 Minutes of Bigfork Land Use Advisory Committee

Committee members present: Clarice Ryan, Darrel Coverdell, Mary Jo Naïve, Shelley Gonzales, John Bourquin. There were 25 members of the public present.

Chairman Bourquin called the meeting to order at 4:07 PM, and called for adoption of the agenda. Agenda was approved. M/S Ryan/Coverdell

Minutes of the March 29, 2007 meeting were approved as emailed. M/S Coverdell/Gonzales

ADMINISTRATOR'S REPORT:

A. BLUAC workshop scheduled for June 14, 2007, 4:00 PM at Bethany Lutheran Church. Purpose is election of officers for 2007/2008, selection of Member At Large, distribution of zoning & training materials and any June applications for the new member. Secretary Hanson notified the committee that the Planning Office thought the Member At Large position must be approved by the Commission before the appointment is official. Committee members interpret the Bylaws to say the Commission and Planning Office is notified of the appointment but does not need Commission approval. Secretary Hanson will sort this out before the June 14, 2007 meeting.

APPLICATIONS:

A. A Zone Change request in the Bigfork Zoning District by Todd Tanner, Robert and Marlene Moriarty, Sherry Carter, 5 Star Management LLC, from R-1 (Suburban Residential), and R-2 (One-Family Limited Residential), to R-3 (One-Family Residential), and R-4 (Two Family Limited Residential). The properties are located at 401, 404, 405, 410 and 420 Windsor Drive, and contain 5.599 acres, (3.72 acres at R-3 and 1.87 acres at R-4).

Staff: B J Grieve introduced two new planners for the county. Andrew Hagemeyer is a graduate of the University of Arizona and Alex Hagel has moved from the Lake County Planning Department. He offered to send the staff report to any one interested. B J noted that the property owner Carter asked to be removed from the application in an earlier letter and has now changed her mind and does want to be included. She would like to divide her property into two lots. Grieve produced an aerial map of the subject area and pointed out the specific zoning existing. The R-3 zoning would allow a smaller minimum lot size and eliminate guest houses. The R-4 zoning is a significant jump from the current zoning and allows duplexes, Class B manufactured homes and smaller lot sizes. He explained the full build-out analysis for R-3 PUD would be 20 units on the 3.72 acres and R-4 PUD 15 per acre or 26 units on 1.87 acres. He explained that increased density is considered in areas where there is minimum impact on infrastructure. The area is close to the business area and Hwy 35. A complication is the access to the subject properties is a private road maintained by a homeowners association. Questions addressed in the staff report were:

1. Does the requested zone comply with the Master Plan?

Conclusion: "The R-3 and denser zones are defined as an urban implementation tool, and are therefore not in strict conformance with the Bigfork Land Use Plan. Furthermore, the subject properties are not serviced by a complete suite of public infrastructure as Windsor Road is a private road. However, due to the growth and change that has occurred in Bigfork since the development of the Bigfork Zoning Map in 1993, it is also appropriate to review the text of the plan for clues as to the intent of the plan and mechanisms for accommodating growth and expansion of Bigfork."

"Residential goals in the Bigfork Land Use Plan include directing patterns of growth to those areas

already urbanized (page 12). The presence of sewer and water and close proximity to commercial, educational, and emergency services could be interpreted as making the subject property appropriate for additional density and development. However, a privately funded and maintained road makes this area lack the full spectrum of public facilities and makes classic definitions of “infill” development not applicable.

Further applicable policies indicate that lots smaller than one acre in size should be on public water and sewer. The proposal conforms to this policy.”

2. Is the requested zone designed to lessen congestion in the streets?

Conclusion: “This application would propose adding units to an area which is within 1-3 miles of many services currently offered in Bigfork. Groceries, food, jobs, churches and recreation are all available on Highway 35. Although the additional development density would increase the number of cars in the immediate neighborhood, the overall impact would be that each of those cars would not travel as far to buy a gallon of milk as if they lived at the outer edges of Bigfork. This would reduce the number of cars traveling into and out of Bigfork each day and serve to lessen congestion in the streets.”

3. Does the requested zone give reasonable consideration to the character of the district?

Conclusion: The character of the district, as described above, is that of a transitional area between R-4 zoning to the south and R-1/R-2 zoning to the north and west. As such, R-3 zoning with uses similar to an R-2 zone is an appropriate transition.

It is important to note that the area to the south that is currently designated R-4 is not “built out,” or developed to the maximum possible R-4 density. Therefore the actual existing character of the area is less than that of an R-4 zone, and is likely to stay that way due to a lack of subdividable space on each lot. The proposed R-4 zone allows for a significantly higher density than the existing development and could alter the character of the area if developed to a maximum “build out.”

4. Will the requested zone secure safety from fire, panic, and other dangers?

Conclusion: “All zoning is designed to protect property owners and provide for safe living. Setbacks are created to prevent fires from jumping between structures, lot coverage limits are set to promote a livable space around structures, etc. The proposed R-3 and R-4 zoning are designed to match with areas having appropriate building sites on public utilities. The proposed site lacks all public utilities (roads). Utilizing zones created and defined for areas with full public facilities in areas that are not accessed via a public road does not secure all safety considerations due to potential access hazards (lack of maintenance, easement disputes, etc.).”

5. Will the requested change promote health and general welfare?

Conclusion: “There are numerous ways to interpret the impact to health and general welfare. The proposed zoning is not likely to create an unhealthy situation due to the intent of all zone districts to provide for healthy and livable communities. It could also be strongly argued that increasing densities in areas that are near parks and potentially within walking/biking distance of many necessary services encourages physical activity amongst residents and increases health. Reducing vehicle miles traveled also increases the overall health of a community as less time is spent in cars (see #2 above).

However, the existing property owners who might feel that additional density will impact their land values and/or quality of living would be justified in claiming that the requested zone will change their general welfare. Increased development density that reduces the natural forest buffers that

currently exist between the R-1 zone to the west and other land uses to the east could also be detrimental to the current livability of neighborhood.”

6 & 7: Will the requested zone prevent the overcrowding of land or undue concentration of people?

Conclusion: “Determining overcrowding of land is a function of establishing “carrying capacity.”

Carrying capacity is determined by matching appropriate concentrations of people with corresponding necessary facilities, services and environmental considerations.

In general, the setbacks, lot coverage restrictions and minimum lot areas established by the proposed residential zones are designed to prevent overcrowding when applied in areas of appropriate facilities and services. The property proposed for a zoning map amendment has many public facilities and services nearby but lacks a public road infrastructure.”

8. Will the requested zone provide for adequate light and air?

Conclusion: “Adequate light and air are provided through minimum lot size standards, setback requirements, height limitations and lot coverage limits contained in the district regulations.”

9. Will the requested zone facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements?

Conclusion: “The proposal is creating additional density in an area served ONLY by a private road (Windsor Drive). Because of this, it can be argued that public transportation facilities in the area are insufficient to accommodate additional density and the associated traffic. Public water and sewer are available to the site. Public schools are located within convenient distance. Parks are located throughout the Bigfork area, and a County park is located just south of the subject properties. Many other public requirements are met along Highway 35, within walking distance of the proposed zone change.”

10. Does the requested zone give consideration to the particular suitability of the property for particular uses?

Conclusion: “The subject properties are suited for residential uses. The properties are surrounded by existing residential uses and the area is unlikely to see a change to any other uses due to limited visibility.”

11. Will the proposed zone conserve the value of property?

Conclusion: “The proposed zone and accompanying increase in entitled development density is likely to increase the value of the subject property. However, according to a statement from a neighbor, the increased density could have a negative impact on the adjacent properties that currently have an established R-1 one-acre estate-type density.”

12. Will the requested zone encourage the most appropriate use of the land throughout the jurisdiction?

Conclusion: “Most appropriate” is a very subjective term and depends on how the proposal impacts a specific party. Establishing the highest densities in the areas closest to necessary services and facilities is traditionally an appropriate and efficient use of land. Emergency response times, vehicle miles traveled and cost of providing services such as plowing and road maintenance are all reduced when densities are focused in established areas. Based on traditional efforts to guide healthy, safe and efficient land use the requested zone change is an appropriate use of land.”

Applicant: Bill Tanner spoke for all applicants. He noted that he met on Tuesday night with some of the neighbors. The request for R-3 zoning is due to the desire to split the lots into two lots. R-3 zoning allows for smaller lot sizes than R-2. The plan is for 4 additional homes in the R-3 zoned lots. As to the

R-4 request, the lot is not large enough to do patio homes in an R-3 zone change. He plans to build 6 units (12 single level units of approx. 1,600 sq. ft./single level). He is willing to put this limitation on the title to the property if it is legal to do so.

Coverdell: Will these units be for sale or rent? A: For sale.

Ryan: Will each unit have a garage? A: Yes.

Bourquin: What is the petition of 50% for zone change? A: The petition refers to land owners. In this case it is 100%.

Gonzales: Will you (Tanner) be doing the development? A: Tanner will build on the R-4 property and two additional homes on the R-3 properties.

What is the status with the homeowners association? A: All homeowners pay their portion of road maintenance. There are no bylaws.

Coverdell: Do you have a will serve letter from Bigfork Water & Sewer? A: Can't answer that.

PUBLIC COMMENT:

Julie Spencer (Bigfork Water & Sewer): The Carter property is not served by BW&S. The Moriarty property has a service line from west to east and would need an easement if the property is subdivided. The DEQ has evaluated all the potential lots for service in the area and has determined that the Sewer system is near capacity. Spencer added that the newest phase to be constructed by BW&S does not add any capacity. The next phase that would add capacity will not be completed until approx. 2011. BW&S will not be approving projects that require additional capacity without approval from DEQ.

BJ Grieve: The R-4 property would have to go through subdivision review and show access to all services, including water and sewer. The subdivision would also require proof legal access to the nearest county road. Lake Hills is a county road. Windsor Drive access would depend on the language of the homeowner's association.

Lynn Welch: Owner with Sherry Carter in the application. They were concerned with the language in the official document (application). They want the option to subdivide one lot on their property. They also wanted assurance that the patio homes would be single story.

Charlie Jantzen: Noted he is President of Windsor Drive Property Owner's Association. He recalled working in Glacier National Park as a ranger during summers. He was a teacher in Long Island and bought property on Windsor Drive in 1984 as a retirement home. His understanding at the time he bought the property that the zoning was R-1 and intended as estate type homes. He is opposed to a zone change and ask that the committee recommend denial. He believes the higher density is a poor decision. He is concerned this will create a domino effect. He noted there are other undeveloped properties in the association area and is concerned about the precedent.

Sue LaRoque: Lives at 391 Windsor drive. She asked, if Tanner put restrictions on the title, would it be binding if he sold the property? A: Tanner-I believe so. If I can't put a binding title on the property, I'll withdraw the application. LaRoque also stated that she is concerned about the applicants selling the property after zone change approval. We need to look at the long term because the Tanner proposal is not carved in stone.

Shawn Duthie: I live at 269 Lake Hills Drive and own property that borders the R-4 proposal. We have lived there 9 years. Two years ago there was a proposal to build condominiums on this property and 50% of the neighbors signed a petition against the proposal and it was dropped. I am concerned that a sale of the property would jeopardize this plan. Even if Tanner pulls his subdivision application, the property will still be zoned R-4. I am also concerned about the loss of trees and the grade of the property. There could be a drainage problem there. We have a large wild life population in this area. I'm concerned about losing the wildlife and the traffic this will generate. Lake Hills Drive is spotty, patched and in very poor condition. There are no sidewalks and no drainage except into people's yards. There are lots of kids in this area and I'm very concerned about increased traffic. I oppose this application.

Fred LaRoque: Stated he lived at 391 Windsor Drive and bought the property based on the understanding from reading the CC&R's and zoning that the Windsor Drive area is and would remain an R-1 "Estate-

type” Development with primarily owner occupied and well cared for higher end homes. He believes this is part of a trend of lot subdivision benefiting developers and harmful to the quality of life and property values of Windsor Drive residents. He noted that several years ago a request for a zone change from R-1 to R-2 in the subdivision was recommended denial by BLUAC but the Flathead County Planning Board, ignoring BLUAC and our objections, approved the change. I am concerned this sets a precedence and very concerned that the R-4 zoning would allow manufactured homes. I believe the Windsor Drive homeowners should have some say in this subdivision. Windsor Drive is a private, dead end road.

Wendy Nissen: I live on the corner of Lake Hills Drive and Windsor Drive. This is a dangerous intersection now. We have children who play in the area and are definitely opposed to the idea of higher density.

Craig Wagner: Suggested that the people on the Flathead County Planning Board are willing to listen to people now. He voiced his concern about sewer hook-ups.

Vern Childers: I live at 295 Lake Hills Drive because it is a quiet area. I was with the Bigfork Fire Department for 30 years and served as Fire Chief. I can tell you this will cause a safety problem adding more people to this area. The school bus has to back into Windsor Drive to turn around. There are real safety issues in this area. I am opposed to this proposal.

John Franklin: His daughter lives at 295 Lake Hills Drive and he read a letter from his daughter. She is concerned this will put town homes in her back yard. She is concerned about increased traffic and noise. There is only one way in/out for emergency vehicles. There are many families with children in this area. More traffic will only cause more damage to an already substandard road. She does not believe the Flathead County Sheriff's Dept., Bigfork Fire Department and QRU would approve the density.

Leslie Duthie: She is opposed to the zone change and noted that the streets do not have sidewalks and there are many children and adults who use the road to walk on.

Jim Jensen: He is opposed to the zone change and stated this is not acceptable to the people in the Windsor Drive community. Most enjoy the quiet neighborhood and have a lot of investment in their homes.

Charlie Jantzen: He is concerned about the fact that there are still a number of lots in the subdivision that have not been developed. We could have a difficult situation with the maintenance of Windsor Drive with the increased traffic.

Kay Jensen: There are people who walk along Windsor Drive every day and many children play on Lake Hills Drive.

Fred LaRoque: I have many objections, especially the change of an existing subdivision.

Bill Tanner (applicant): I am prepared to accept suggestions from any and all. I am willing to compromise in the R-4 property and prepared to do what the neighbors ask.

COMMITTEE:

Ryan: This seems complicated. I am mostly concerned about the R-4 change. Can the R-3 and R-4 properties be separated into different applications? A: B J-the project can be modified at the Planning Board level. You can make a recommendation on pieces of the application.

Coverdell: Has mixed emotions and feels the R-4 changes the atmosphere of current community. It appears most neighbors are not in favor of the change.

Naïve: I approve of density that will utilized current services and building out from the center of Bigfork is a good idea. I'm concerned about the private road and the fire safety is a key issue. I think this change would cause some difficult issues.

Gonzales: Bigfork needs the duplex type development. I just don't think this is the right area for it.

Bourquin: 1) There is not one public comment in favor of the change. 2) Access to public services and easements could be a can of worms. 3) Fire safety is an issue on a one-way road. 4) Bigfork needs the patio home concept, but it doesn't fit here. 5) I'm concerned about the decrease in property values for established homes. 6) Sewer capacity is a serious concern. 7) This project is out of character for this area.

Shelley Gonzales moved that BLUAC recommend denial of the application. Motion was seconded by Bourquin.

Discussion:

Coverdell: Would like it better without the R-4 zoning.

Gonzales: If this were brought back in a different package, I would be willing to look at it.

Naïve: Lots are what they are. People should know that whey they buy.

Bourquin: Concerned about precedent and the possibility of owners changing hands.

Ryan: This would be acceptable without the R-4.

Motion was passed, unanimously, to recommend denial. The application will be considered by the Flathead County Planning Board on June 13, 2007, 6:00 PM, Earl Bennett Building, 1035 First Avenue West, Kalispell.

Secretary will poll members before the Planning Board meeting to assure representation at the meeting.

B. Westcor application was withdrawn.

OLD BUSINESS:

A. Overlay Zoning: Copies of the overlay plan in Galatin County was distributed to committee members for their study.

B. Sign & Zoning Violations: Bourquin expressed his appreciation for the two articles in the Bigfork Eagle and the Lakeshore Country Journal regarding sign violations. Members were given two drafts of a letter for use in violations. Bourquin asked the address under the letterhead be justified to the right. Mary Jo Naïve moved the letter beginning "Flathead County regulations allow" be used. Darrel Coverdell seconded the motion. Motion passed unanimously.

The committee discussed the businesses to contact regarding sign violations. They include:

Grizzly Jacks: Animated/flashing sign, violation of electrical safety code, portable reader board.

Bigfork VFW: Portable reader board, road setback.

Jackpot Casino: Portable reader board.

Little Brown Church: Portable reader board.

Swan Valley Real Estate: Sign above roofline.

Blush Salon: Sign above roofline.

Echo Lake Store: Portable reader board.

The secretary was asked to send letters, certified with return receipt, including a copy of county sign regulations and a photo of the sign in question. Members would like copies of letters and photos kept in a master file. John Bourquin will ask the BSC for funds to cover the expenses.

C. Status on Branding Iron: Coverdell reported he felt parking would be an issue at Branding Iron. Parking spaces are determined by the use of the units. He noted concern that the units were originally advertised for sale individually. He spoke with Planning Director, Jeff Harris, who stated there is a continuing problem with properties being built as rental or lease units and then being converted to condos for sale. The county is not giving deed titles to such units until they undergo the proper review with planning and zoning. The building of rental/lease property and then converting to condos is used as a means of bypassing the zoning regulations. Harris suggested BLUAC write a letter to the Planning and Zoning Office stating the concern that Branding Iron has this potential. The county would then forward this to the developer and have a "leg up" should they try to convert to a condo development. This would likely stand up in court as it would show that the developer knew from the beginning that a full review was necessary before conversion and sale as condos.

The secretary and Coverdell will provide a draft letter to the Flathead County Planning Office, with copies of both brochures, to be approved before mailing.

Coverdell moved that a letter be written to the Flathead County Planning Board regarding the issue of Branding Iron. Bourquin seconded the motion. Motion was passed unanimously.

NEW BUSINESS:

A. Follow up procedures for recommendations to the County P & Z and Board of Adjustments on applications: The committee discussed measures to assure the decisions of BLUAC were considered at the county level. When minutes are sent to the county, the decisions in the form of motions or bullet points of justification of BLUAC decisions, will be placed on the body of the email as well as minutes attached in full. A member of BLUAC will attend meetings at the county level to answer any questions or reinforce the BLUAC position.

PUBLIC COMMENT:

John Franklin noted it would be useful if the Bigfork Fire Department was represented at the Planning Board meeting on June 13th.

Meeting was adjourned at 6:43 PM

Sue Hanson
BLUAC Secretary